

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

SECOND REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

FORTY-SEVENTH LEGISLATIVE DAY
FRIDAY, FEBRUARY 27, 2004

Senate Chamber

President Pro Tempore Geddes called the Senate to order at 9:30 a.m.

Roll call showed all members present except Senators Hill and Williams, absent and formally excused by the Chair; and Senators Bailey, Brandt, Burkett, Compton, Darrington, Ingram, Kennedy, Richardson, Stegner, Stennett, and Sweet, absent and excused.

Prayer was offered by Senator Brad Little.

The Pledge of Allegiance was led by Emily Infanger, Page.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of February 26, 2004, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Darrington, Richardson, Stennett, and Sweet were recorded present at this order of business.

February 27, 2004

The JUDICIARY AND RULES Committee reports that **S 1404**, **S 1405**, **S 1406**, **S 1407**, **SCR 130**, and **SCR 131** have been correctly printed.

DARRINGTON, Chairman

S 1404 and **S 1405** were referred to the Finance Committee.

S 1406 was referred to the Education Committee.

S 1407 was referred to the Judiciary and Rules Committee.

SCR 130 and **SCR 131** were referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 26, 2004

The JUDICIARY AND RULES Committee reports that **SJM 105** and **SJM 106** have been correctly enrolled.

DARRINGTON, Chairman

The President Pro Tempore signed Enrolled **SJM 105** and **SJM 106** and ordered them transmitted to the House for the signature of the Speaker.

February 26, 2004

The FINANCE Committee reports out **H 732**, **H 733**, **H 734**, **H 735**, **H 736**, and **H 737** with the recommendation that they do pass.

CAMERON, Chairman

H 732, **H 733**, **H 734**, **H 735**, **H 736**, and **H 737** were filed for second reading.

February 26, 2004

The HEALTH AND WELFARE Committee reports out **S 1320** with the recommendation that it do pass.

BRANDT, Chairman

S 1320 was filed for second reading.

February 26, 2004

The EDUCATION Committee reports out **S 1350**, **S 1351**, and **S 1329** with the recommendation that they be referred to the Fourteenth Order of Business for amendment.

SCHRODER, Chairman

There being no objection, **S 1350**, **S 1351**, and **S 1329** were referred to the Fourteenth Order of Business, General Calendar.

February 26, 2004

The EDUCATION Committee reports out **S 1363** with the recommendation that it do pass.

SCHROEDER, Chairman

S 1363 was filed for second reading.

February 26, 2004

The TRANSPORTATION Committee reports out **H 480** and **H 540** with the recommendation that they do pass.

INGRAM, Chairman

H 480 and **H 540** were filed for second reading.

February 27, 2004

The FINANCE Committee reports out **S 1404** and **S 1405** with the recommendation that they do pass.

CAMERON, Chairman

S 1404 and **S 1405** were filed for second reading.

February 27, 2004

The COMMERCE AND HUMAN RESOURCES Committee reports out **S 1382**, **H 569**, **H 619**, **H 622**, and **H 618** with the recommendation that they do pass.

ANDREASON, Chairman

S 1382, **H 569**, **H 619**, **H 622**, and **H 618** were filed for second reading.

February 27, 2004

The TRANSPORTATION Committee reports it has had under consideration the Gubernatorial appointment listed below and the Committee recommends that said appointment be confirmed by the Senate:

Bruce Sweeney to the Idaho Transportation Board, term to expire January 31, 2010.

INGRAM, Chairman

The Gubernatorial appointment was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

February 27, 2004

The AGRICULTURAL Committee reports out **H 614** and **H 615** with the recommendation that they do pass.

NOBLE, Vice Chairman

H 614 and **H 615** were filed for second reading.

February 27, 2004

The COMMERCE AND HUMAN RESOURCES Committee reports out **HCR 43** with the recommendation that it do pass.

ANDREASON, Chairman

HCR 43 was referred to the Tenth Order of Business, Motions and Resolutions, and ordered held at the Secretary's desk for one legislative day.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

Senators Bailey, Burkett, and Compton, were recorded present at this order of business.

February 26, 2004

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to advise you that I have signed today and am transmitting to the Secretary of State the following Senate Bills, to wit:

S 1214, S 1222, S 1223

Sincerely,
/s/ Dirk Kempthorne
Governor

The correspondence was ordered filed in the office of the Secretary of the Senate.

February 26, 2004

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have appointed Freeman Duncan of Post Falls, Idaho, to be Acting State Senator for Legislative District 5. This appointment will be effective March 1, 2004, and continue until such time as Senator Richard L. "Dick" Compton is able to resume his duties.

Sincerely,
/s/ Dirk Kempthorne
Governor

THE OFFICE OF THE GOVERNOR
EXECUTIVE DEPARTMENT
BOISE, IDAHO
CERTIFICATE OF APPOINTMENT

KNOW ALL MEN, by these Presents that pursuant to the provisions of Section 59-917, *Idaho Code*, Richard L. "Dick" Compton, State Senator, District 5, Kootenai County, State of Idaho, has nominated Freeman Duncan of Post Falls, Idaho, to perform the duties of this office temporarily as Acting State Senator, District 5, Kootenai County.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by virtue of the authority vested in me do hereby appoint Freeman Duncan, to the office of State Senator, District 5, Kootenai County, State of Idaho, for a term commencing on March 1, 2004, and continuing until such time as Senator Richard L. "Dick" Compton is able to resume his duties.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho.

Done at Boise, the Capital of Idaho, this twenty-sixth day of February, in the year of our Lord Two thousand and four and of the Independence of the United States of America, the two hundred and twenty-eighth year.

/s/ BY THE GOVERNOR DIRK KEMPTHORNE
/s/ SECRETARY OF STATE BEN YSURA

The correspondence and Certificate of Appointment were ordered filed in the office of the Secretary of the Senate.

The Senate advanced to the Ninth Order of Business.

Messages from the House

Senators Brandt, Ingram, and Kennedy were recorded present at this order of business.

February 26, 2004

Mr. President:

I transmit herewith **H 641, H 711, H 632, H 543, HCR 48, H 697, H 694, H 712, H 516, H 604**, as amended, **H 631**, as amended, **H 625**, as amended, **H 676**, as amended, and **H 659**, as amended, which have passed the House.

JUKER, Chief Clerk

H 641, H 711, H 632, H 543, HCR 48, H 697, H 694, H 712, H 516, H 604, as amended, **H 631**, as amended, **H 625**, as amended, **H 676**, as amended, and **H 659**, as amended, were filed for first reading.

February 26, 2004

Mr. President:

I return herewith Enrolled **S 1229** and **S 1230** which have been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1229** and **S 1230** were referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

February 27, 2004

Mr. President:

I return herewith Enrolled **S 1253** which has been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1253** was referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

February 27, 2004

Mr. President:

I transmit herewith **HCR 53** which has passed the House.

JUKER, Chief Clerk

HCR 53 was filed for first reading.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

Senator Stegner was recorded present at this order of business.

On request by Senator Schroeder, granted by unanimous consent, **SCR 125** retained its place on the calendar for one legislative day.

President Pro Tempore Geddes called Senator Little to the Chair.

The Acting President announced the Judiciary and Rules Committee report relative to the Gubernatorial appointment of Del Ray Holm was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Marley, seconded by Senator Davis, the Gubernatorial appointment of Del Ray Holm as a member of the Commission on Pardons and Parole was confirmed by voice vote.

The Acting President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Acting President announced the State Affairs Committee report relative to the Gubernatorial appointment of Sandra Twiggs was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by President Pro Tempore Geddes, seconded by Senator Stennett, the Gubernatorial appointment of Sandra Twiggs as a member of the Idaho Commission on Human Rights was confirmed by voice vote.

The Acting President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

**Introduction, First Reading and Reference of Bills,
House Petitions, Resolutions, and Memorials**

Moved by Senator Davis, seconded by Senator Stennett, that all rules of the Senate interfering with the immediate consideration of **HCR 53** be suspended. The question being, "Shall the rules be suspended?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Sorensen, Stennett, Sweet, Werk. Total - 30.

NAYS--None.

Absent and excused--Bunderson, Hill, Schroeder, Stegner, Williams. Total - 5.

Total - 35.

More than two-thirds having voted in the affirmative, the Acting President declared the rules suspended and announced that **HCR 53** was before the Senate for final consideration. The question being, "Shall the resolution be adopted?"

On motion by Senator Sorensen, seconded by Senator Werk, **HCR 53** was adopted by voice vote, title was approved, and the resolution ordered returned to the House.

**S 1408
BY FINANCE COMMITTEE
AN ACT**

APPROPRIATING MONEYS FROM THE PERMANENT BUILDING FUND TO THE DIVISION OF PUBLIC WORKS FOR THE VARIOUS PURPOSES SPECIFIED; REAPPROPRIATING UNEXPENDED MONEYS TO THE DIVISION OF PUBLIC WORKS AND DIRECTING THEIR USE; EXPRESSING LEGISLATIVE INTENT CONCERNING THE USE OF MONEYS APPROPRIATED IN THIS ACT; EXEMPTING THE APPROPRIATIONS FROM THE PROVISIONS OF CHAPTER 36, TITLE 67, IDAHO CODE, AND FROM THE PROVISIONS OF SECTION 67-3516, IDAHO CODE; AND AUTHORIZING THE USE OF TAX ANTICIPATION NOTES.

S 1408 was introduced, read the first time at length, and referred to the Judiciary and Rules Committee for printing.

H 641, by Judiciary, Rules, and Administration Committee, was introduced, read the first time at length, and referred to the Judiciary and Rules Committee.

H 711, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

H 632, by Education Committee, was introduced, read the first time at length, and referred to the Education Committee.

H 543, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

HCR 48, by Ways and Means Committee, was introduced, read at length, and referred to the Resources and Environment Committee.

H 697 and **H 694**, by Health and Welfare Committee, were introduced, read the first time at length, and referred to the Health and Welfare Committee.

H 712, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

H 516, by Revenue and Taxation Committee, was introduced, read the first time at length, and referred to the Local Government and Taxation Committee.

H 604, as amended, by Transportation and Defense Committee, was introduced, read the first time at length, and referred to the Transportation Committee.

H 631, as amended, by Education Committee, was introduced, read the first time at length, and referred to the Education Committee.

H 625, as amended, by State Affairs Committee, was introduced, read the first time at length, and referred to the State Affairs Committee.

H 676, as amended, by Environmental Affairs Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

H 659, as amended, by Health and Welfare Committee, was introduced, read the first time at length, and referred to the Health and Welfare Committee.

The Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

S 1288, by Health and Welfare Committee, was read the second time at length and filed for third reading.

S 1344, S 1331, S 1347, S 1358, S 1361, S 1345, and S 1348, by Education Committee, were read the second time at length and filed for third reading.

H 718, H 721, H 722, and H 723, by Appropriations Committee, were read the second time at length and filed for third reading.

S 1333, by Judiciary and Rules Committee, was read the second time at length and filed for third reading.

H 518, by Judiciary, Rules, and Administration Committee, was read the second time at length and filed for third reading.

S 1396, S 1397, S 1398, S 1399, S 1400, S 1401, S 1402, and **S 1403**, by Finance Committee, were read the second time at length and filed for third reading.

S 1371 and **S 1260**, by Judiciary and Rules Committee, were read the second time at length and filed for third reading.

H 537 and **H 538**, by Revenue and Taxation Committee, were read the second time at length and filed for third reading.

The Senate advanced to the Thirteenth Order of Business.

Third Reading of Bills

S 1266, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Davis arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Sorensen, Stegner, Stennett, Sweet, Werk. Total - 32.

NAYS--None.

Absent and excused--Hill, Schroeder, Williams. Total - 3.

Total - 35.

Whereupon the Acting President declared **S 1266** passed, title was approved, and the bill ordered transmitted to the House.

S 1232, as amended, having been held, was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Noh and Gannon arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk. Total - 33.

NAYS--None.

Absent and excused--Hill, Williams. Total - 2.

Total - 35.

Whereupon the Acting President declared **S 1232**, as amended, passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Stegner, granted by unanimous consent, **S 1318** retained its place on the Third Reading Calendar for one legislative day.

S 1323 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Gannon arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Bunderson, Burkett, Burtenshaw, Compton, Darrington, Gannon, Goedde, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Richardson, Schroeder, Sorensen, Stegner, Stennett, Werk. Total - 26.

NAYS--Brandt, Calabretta, Cameron, Davis, Geddes, Pearce, Sweet. Total - 7.

Absent and excused--Hill, Williams. Total - 2.

Total - 35.

Whereupon the Acting President declared **S 1323** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Gannon, granted by unanimous consent, **S 1356** retained its place on the Third Reading Calendar for Wednesday, March 3, 2004.

S 1302 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Bunderson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk. Total - 32.

NAYS--None.

Absent and excused--Calabretta, Hill, Williams. Total - 3.

Total - 35.

Whereupon the Acting President declared **S 1302** passed, title was approved, and the bill ordered transmitted to the House.

S 1309 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Noh arose as sponsor of the bill and opened the debate.

On request by Senator Noh, granted by unanimous consent, **S 1309** retained its place on the Third Reading Calendar for Wednesday, March 3, 2004.

S 1372 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Davis arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk. Total - 33.

NAYS--None.

Absent and excused--Hill, Williams. Total - 2.

Total - 35.

Whereupon the Acting President declared **S 1372** passed, title was approved, and the bill ordered transmitted to the House.

S 1381 was read the third time at length, section by section, and placed before the Senate for final consideration. Senator Keough arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk. Total - 32.

NAYS--None.

Absent and excused--Hill, Ingram, Williams. Total - 3.

Total - 35.

Whereupon the Acting President declared **S 1381** passed, title was approved, and the bill ordered transmitted to the House.

S 1367 was read the third time at length, section by section, and placed before the Senate for final consideration. Senators Noh and Ingram arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Pearce, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk. Total - 33.

NAYS--None.

Absent and excused--Hill, Williams. Total - 2.

Total - 35.

Whereupon the Acting President declared **S 1367** passed, title was approved, and the bill ordered transmitted to the House.

On request by Senator Davis, granted by unanimous consent, all Senate bills were placed at the head of the Third Reading Calendar, followed by House bills amended in the Senate, followed by House Appropriations Committee bills, followed by House bills.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 12:10 p.m. until the hour of 8:30 a.m., Monday, March 1, 2004.

BRAD LITTLE, Acting President

Attest: JEANNINE WOOD, Secretary